

Union Calendar No. 194

108TH CONGRESS
1ST SESSION

H. R. 3214

[Report No. 108-321, Part I]

To eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 1, 2003

Mr. SENSENBRENNER (for himself, Mr. DELAHUNT, Mr. LAHOOD, Mr. CONYERS, Mr. COBLE, Mr. SCOTT of Virginia, Mr. GREEN of Wisconsin, Mr. WEINER, Mr. SCHIFF, Mr. HYDE, Mr. CANNON, Mr. CHABOT, Mr. SMITH of Texas, Mr. BACHUS, Mr. CARTER, Mr. FEENEY, Mr. FORBES, Mr. GALLEGLY, Mr. GOODLATTE, Ms. HART, Ms. JACKSON-LEE of Texas, Mr. JENKINS, Mr. KELLER, Mr. KING of Iowa, Ms. LOFGREN, Mr. MEEHAN, Mr. PENCE, Ms. WATERS, Mr. WATT, Mr. WEXLER, Ms. PRYCE of Ohio, Mr. ABERCROMBIE, Mr. BASS, Mr. BERMAN, Mr. BLUMENAUER, Mr. BOEHNER, Mr. BROWN of Ohio, Mr. CALVERT, Mr. CAMP, Mr. CASE, Mr. CAPUANO, Mrs. CHRISTENSEN, Mr. CROWLEY, Mr. CUMMINGS, Mr. DOOLEY of California, Mr. EMANUEL, Mr. ENGEL, Mr. ENGLISH, Mr. EVANS, Mr. FARR, Mr. FILNER, Mr. GEPHARDT, Mr. GIBBONS, Mr. GILCHREST, Mr. GREENWOOD, Mr. HOEFFEL, Mr. HILL, Mr. HINCHEY, Mr. HOLDEN, Mr. HOLT, Mr. JACKSON of Illinois, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KING of New York, Mrs. MALONEY, Ms. MCCARTHY of Missouri, Mr. MCGOVERN, Mr. MCINNIS, Mr. McNULTY, Mr. OBERSTAR, Mr. OLVER, Mr. PETRI, Mr. QUINN, Mr. RODRIGUEZ, Mr. RUSH, Mr. SANDERS, Mr. SANDLIN, Mr. SERRANO, Mr. SHERMAN, Mr. SMITH of Washington, Ms. SOLIS, Mr. SPRATT, Mr. STARK, Mr. STRICKLAND, Mrs. TAUSCHER, Mr. UDALL of Colorado, Mr. WALSH, Mr. WOLF, Ms. WOOLSEY, Mr. STUPAK, Ms. VELÁZQUEZ, Ms. CARSON of Indiana, Mr. GREEN of Texas, Mr. NADLER, Mrs. NAPOLITANO, Mr.

SHIMKUS, Ms. CORRINE BROWN of Florida, Mr. LANGEVIN, Mr. MORAN of Virginia, and Mr. McDERMOTT) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

OCTOBER 16, 2003

Additonal sponsors: Mr. HOSTETTLER, Mr. EHLERS, Ms. DeLAURO, Ms. WATSON, Mr. OSBORNE, Mr. JOHNSON of Illinois, Mr. CRANE, Mr. COSTELLO, Mr. WYNN, Ms. SLAUGHTER, Mr. UDALL of New Mexico, Mr. ALLEN, Mr. FRANK of Massachusetts, Ms. LINDA T. SÁNCHEZ of California, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BALDWIN, Mr. BOUCHER, Mrs. JOHNSON of Connecticut, Mrs. KELLY, Mr. RENZI, Mr. LEWIS of California, Mr. RAMSTAD, Mr. PEARCE, Mr. JOHN, Mrs. MCCARTHY of New York, Mr. TOWNS, Ms. HOOLEY of Oregon, Ms. NORTON, Ms. BERKLEY, Mr. ACKERMAN, Mr. GEORGE MILLER of California, Ms. MILLENDER-McDONALD, Mr. LARSEN of Washington, Mr. MEEKS of New York, Mr. ROTHMAN, Mr. TOOMEY, Mr. WAXMAN, Mr. FORD, Mrs. CAPPS, Mr. FROST, Ms. HARMAN, Mr. PASTOR, Mr. BAKER, Mr. LAMPSON, Mr. MATHESON, Mr. McHUGH, Mr. LaTOURETTE, Ms. DeGETTE, Mr. TERRY, Mr. MARKEY, Mr. MOORE, Ms. SCHAKOWSKY, Ms. LEE, Mr. HONDA, Mr. BECERRA, Ms. DUNN, Mr. KENNEDY of Minnesota, Mr. ACEVEDO-VILÁ, Mr. MICHAUD, Ms. MAJETTE, Mr. LANTOS, Mr. KANJORSKI, Mr. KIND, Mr. BOYD, Mr. DICKS, Ms. ESCHOO, Mr. ISRAEL, Mr. PRICE of North Carolina, Mr. LYNCH, Mr. TAYLOR of North Carolina, Mr. PALLONE, Mrs. JONES of Ohio, Mr. VITTER, Mr. ETHERIDGE, Mr. LEACH, Mr. SHAYS, Mr. GUTIERREZ, Mr. SWEENEY, Mr. JEFFERSON, Mr. HASTINGS of Florida, Mr. McCOTTER, Mr. SMITH of New Jersey, Mr. THOMPSON of Mississippi, Mr. SIMMONS, Mr. TIBERI, Mr. HOYER, Mr. BARTLETT of Maryland, Mr. BOEHLERT, Mr. CLAY, Mr. MENENDEZ, Mr. BACA, Mr. ROHRBACHER, Mr. MURTHA, Mr. TIERNEY, Mr. TURNER of Ohio, Mr. PORTMAN, Mr. NEAL of Massachusetts, Mr. BELL, Mr. WELLER, Ms. McCOLLUM, Mr. CASTLE, Mr. ANDREWS, Mr. BRADY of Pennsylvania, Mrs. DAVIS of California, Mr. DEFazio, Mr. DOYLE, Mr. FATTAH, Mr. GORDON, Mr. HASTINGS of Washington, Ms. KILPATRICK, Mr. LEVIN, Mr. PAYNE, Mr. RANGEL, Ms. ROYBAL-ALLARD, Mr. WELDON of Pennsylvania, Mr. VAN HOLLEN, Mr. BEAUPREZ, Ms. PELOSI, Mr. BURR, Mr. MATSUI, Mr. DAVIS of Illinois, Mr. INSLEE, Mr. LEWIS of Georgia, Mrs. LOWEY, Ms. LORETTA SANCHEZ of California, Mr. RYAN of Ohio, Mr. POMEROY, Mr. SABO, Mr. PASCRELL, Mr. HOUGHTON, Mr. LARSON of Connecticut, Mr. RAHALL, Mr. THOMPSON of California, Mr. KUCINICH, Mr. SCOTT of Georgia, Mr. BOSWELL, Mr. CARSON of Oklahoma, Mr. CLYBURN, Mr. TOM DAVIS of Virginia, Mr. DOGGETT, Mrs. EMERSON, Mr. GONZALEZ, Mr. HINOJOSA, Ms. KAPTUR, Mr. LIPINSKI, Mr. PETERSON of Minnesota, Mr. REYES, Mr. OXLEY, Mr. GILLMOR, and Mr. UPTON

OCTOBER 16, 2003

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

OCTOBER 16, 2003

Referral to the Committee on Armed Services extended for a period ending
not later than October 16, 2003

OCTOBER 16, 2003

Committee on Armed Services discharged; committed to the Committee of the
Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on October 1, 2003]

A BILL

To eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Ad-*
5 *vancing Justice Through DNA Technology Act of 2003”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
7 *Act is as follows:*

Sec. 1. Short title; table of contents.

*TITLE I—RAPE KITS AND DNA EVIDENCE BACKLOG ELIMINATION
ACT OF 2003*

- Sec. 101. Short title.*
Sec. 102. Debbie Smith DNA Backlog Grant Program.
Sec. 103. Expansion of Combined DNA Index System.
Sec. 104. Tolling of statute of limitations.
Sec. 105. Legal assistance for victims of violence.
Sec. 106. Ensuring private laboratory assistance in eliminating DNA backlog.

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003

- Sec. 201. Short title.*
Sec. 202. Ensuring public crime laboratory compliance with Federal standards.
Sec. 203. DNA training and education for law enforcement, correctional personnel, and court officers.
Sec. 204. Sexual assault forensic exam program grants.
Sec. 205. DNA research and development.
Sec. 206. FBI DNA programs.
Sec. 207. DNA identification of missing persons.
Sec. 208. Enhanced criminal penalties for unauthorized disclosure or use of DNA information.
Sec. 209. Tribal coalition grants.
Sec. 210. Expansion of Paul Coverdell Forensic Science Improvement Grant Program.
Sec. 211. Report to Congress.

TITLE III—INNOCENCE PROTECTION ACT OF 2003

- Sec. 301. Short title.*

Subtitle A—Exonerating the Innocent Through DNA Testing

- Sec. 311. Federal post-conviction DNA testing.*
Sec. 312. Kirk Bloodsworth Post-Conviction DNA Testing Grant Program.
Sec. 313. Incentive grants to States to ensure consideration of claims of actual innocence.

Subtitle B—Improving the Quality of Representation in State Capital Cases

- Sec. 321. Capital representation improvement grants.*
Sec. 322. Capital prosecution improvement grants.
Sec. 323. Applications.
Sec. 324. State reports.
Sec. 325. Evaluations by Inspector General and administrative remedies.
Sec. 326. Authorization of appropriations.

Subtitle C—Compensation for the Wrongfully Convicted

- Sec. 331. Increased compensation in Federal cases for the wrongfully convicted.*
Sec. 332. Sense of Congress regarding compensation in State death penalty cases.

1 **TITLE I—RAPE KITS AND DNA**
 2 **EVIDENCE BACKLOG ELIMI-**
 3 **NATION ACT OF 2003**

4 **SEC. 101. SHORT TITLE.**

5 *This title may be cited as the “Rape Kits and DNA*
 6 *Evidence Backlog Elimination Act of 2003”.*

7 **SEC. 102. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.**

8 *(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF*
 9 *LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the*
 10 *DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C.*
 11 *14135) is amended—*

12 *(1) by amending the heading to read as follows:*

13 **“SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PRO-**
 14 **GRAM.”;**

15 *(2) in subsection (a)—*

16 *(A) in the matter preceding paragraph*

17 *(1)—*

18 *(i) by inserting “or units of local gov-*
 19 *ernment” after “eligible States”; and*

20 *(ii) by inserting “or unit of local gov-*
 21 *ernment” after “State”;*

22 *(B) in paragraph (2), by inserting before*
 23 *the period at the end the following: “, including*
 24 *samples from rape kits, samples from other sex-*

1 *ual assault evidence, and samples taken in cases*
2 *without an identified suspect”; and*

3 *(C) in paragraph (3), by striking “within*
4 *the State”;*

5 *(3) in subsection (b)—*

6 *(A) in the matter preceding paragraph*
7 *(1)—*

8 *(i) by inserting “or unit of local gov-*
9 *ernment” after “State” both places that*
10 *term appears; and*

11 *(ii) by inserting “, as required by the*
12 *Attorney General” after “application shall”;*

13 *(B) in paragraph (1), by inserting “or unit*
14 *of local government” after “State”;*

15 *(C) in paragraph (3), by inserting “or unit*
16 *of local government” after “State” the first place*
17 *that term appears;*

18 *(D) in paragraph (4)—*

19 *(i) by inserting “or unit of local gov-*
20 *ernment” after “State”; and*

21 *(ii) by striking “and” at the end;*

22 *(E) in paragraph (5)—*

23 *(i) by inserting “or unit of local gov-*
24 *ernment” after “State”; and*

1 (ii) by striking the period at the end
2 and inserting a semicolon; and

3 (F) by adding at the end the following:

4 “(6) if submitted by a unit of local government,
5 certify that the unit of local government has taken, or
6 is taking, all necessary steps to ensure that it is eligi-
7 ble to include, directly or through a State law enforce-
8 ment agency, all analyses of samples for which it has
9 requested funding in the Combined DNA Index Sys-
10 tem; and”;

11 (4) in subsection (d)—

12 (A) in paragraph (1)—

13 (i) in the matter preceding subpara-
14 graph (A), by striking “The plan” and in-
15 serting “A plan pursuant to subsection
16 (b)(1)”;

17 (ii) in subparagraph (A), by striking
18 “within the State”; and

19 (iii) in subparagraph (B), by striking
20 “within the State”; and

21 (B) in paragraph (2)(A), by inserting “and
22 units of local government” after “States”;

23 (5) in subsection (e)—

1 (A) in paragraph (1), by inserting “or local
2 government” after “State” both places that term
3 appears; and

4 (B) in paragraph (2), by inserting “or unit
5 of local government” after “State”;

6 (6) in subsection (f), in the matter preceding
7 paragraph (1), by inserting “or unit of local govern-
8 ment” after “State”;

9 (7) in subsection (g)—

10 (A) in paragraph (1), by inserting “or unit
11 of local government” after “State”; and

12 (B) in paragraph (2), by inserting “or
13 units of local government” after “States”; and

14 (8) in subsection (h), by inserting “or unit of
15 local government” after “State” both places that term
16 appears.

17 (b) *REAUTHORIZATION AND EXPANSION OF PRO-*
18 *GRAM.*—Section 2 of the *DNA Analysis Backlog Elimini-*
19 *nation Act of 2000 (42 U.S.C. 14135) is amended—*

20 (1) in subsection (a)—

21 (A) in paragraph (3), by inserting “(1) or”
22 before “(2)”; and

23 (B) by inserting at the end the following:

24 “(4) To collect DNA samples specified in para-
25 graph (1).

1 “(5) *To ensure that DNA testing and analysis of*
2 *samples from crimes, including sexual assault and*
3 *other serious violent crimes, are carried out in a*
4 *timely manner.*”;

5 (2) *in subsection (b), as amended by this section,*
6 *by inserting at the end the following:*

7 “(7) *specify that portion of grant amounts that*
8 *the State or unit of local government shall use for the*
9 *purpose specified in subsection (a)(4).*”;

10 (3) *by amending subsection (c) to read as fol-*
11 *lows:*

12 “(c) *FORMULA FOR DISTRIBUTION OF GRANTS.—*

13 “(1) *IN GENERAL.—The Attorney General shall*
14 *distribute grant amounts, and establish appropriate*
15 *grant conditions under this section, in conformity*
16 *with a formula or formulas that are designed to effec-*
17 *tuate a distribution of funds among eligible States*
18 *and units of local government that—*

19 “(A) *maximizes the effective utilization of*
20 *DNA technology to solve crimes and protect pub-*
21 *lic safety; and*

22 “(B) *allocates grants among eligible entities*
23 *fairly and efficiently to address jurisdictions in*
24 *which significant backlogs exist, by consid-*
25 *ering—*

1 “(i) the number of offender and case-
2 work samples awaiting DNA analysis in a
3 jurisdiction;

4 “(ii) the population in the jurisdiction;
5 and

6 “(iii) the number of part 1 violent
7 crimes in the jurisdiction.

8 “(2) *MINIMUM AMOUNT.*—The Attorney General
9 shall allocate to each State not less than 0.50 percent
10 of the total amount appropriated in a fiscal year for
11 grants under this section, except that the United
12 States Virgin Islands, American Samoa, Guam, and
13 the Northern Mariana Islands shall each be allocated
14 0.125 percent of the total appropriation.

15 “(3) *LIMITATION.*—Grant amounts distributed
16 under paragraph (1) shall be awarded to conduct
17 DNA analyses of samples from casework or from vic-
18 tims of crime under subsection (a)(2) in accordance
19 with the following limitations:

20 “(A) For fiscal year 2005, not less than 50
21 percent of the grant amounts shall be awarded
22 for purposes under subsection (a)(2).

23 “(B) For fiscal year 2006, not less than 50
24 percent of the grant amounts shall be awarded
25 for purposes under subsection (a)(2).

1 “(C) For fiscal year 2007, not less than 45
2 percent of the grant amounts shall be awarded
3 for purposes under subsection (a)(2).

4 “(D) For fiscal year 2008, not less than 40
5 percent of the grant amounts shall be awarded
6 for purposes under subsection (a)(2).

7 “(E) For fiscal year 2009, not less than 40
8 percent of the grant amounts shall be awarded
9 for purposes under subsection (a)(2).”;
10 (4) in subsection (g)—

11 (A) in paragraph (1), by striking “and” at
12 the end;

13 (B) in paragraph (2), by striking the period
14 at the end and inserting “; and”; and

15 (C) by adding at the end the following:

16 “(3) a description of the priorities and plan for
17 awarding grants among eligible States and units of
18 local government, and how such plan will ensure the
19 effective use of DNA technology to solve crimes and
20 protect public safety.”;

21 (5) in subsection (j), by striking paragraphs (1)
22 and (2) and inserting the following:

23 “(1) \$151,000,000 for fiscal year 2005;

24 “(2) \$151,000,000 for fiscal year 2006;

25 “(3) \$151,000,000 for fiscal year 2007;

1 “(4) \$151,000,000 for fiscal year 2008; and
2 “(5) \$151,000,000 for fiscal year 2009.”; and
3 (6) by adding at the end the following:

4 “(k) *USE OF FUNDS FOR ACCREDITATION AND AU-*
5 *DITS.—The Attorney General may distribute not more than*
6 *1 percent of the grant amounts under subsection (j)—*

7 “(1) *to States or units of local government to de-*
8 *fray the costs incurred by laboratories operated by*
9 *each such State or unit of local government in pre-*
10 *paring for accreditation or reaccreditation;*

11 “(2) *in the form of additional grants to States,*
12 *units of local government, or nonprofit professional*
13 *organizations of persons actively involved in forensic*
14 *science and nationally recognized within the forensic*
15 *science community—*

16 “(A) *to defray the costs of external audits of*
17 *laboratories operated by such State or unit of*
18 *local government, which participates in the Na-*
19 *tional DNA Index System, to determine whether*
20 *the laboratory is in compliance with quality as-*
21 *urance standards;*

22 “(B) *to assess compliance with any plans*
23 *submitted to the National Institute of Justice,*
24 *which detail the use of funds received by States*
25 *or units of local government under this Act; and*

1 “(C) to support future capacity building ef-
2 forts; and

3 “(3) in the form of additional grants to non-
4 profit professional associations actively involved in
5 forensic science and nationally recognized within the
6 forensic science community to defray the costs of
7 training persons who conduct external audits of lab-
8 oratories operated by States and units of local govern-
9 ment and which participate in the National DNA
10 Index System.

11 “(l) *EXTERNAL AUDITS AND REMEDIAL EFFORTS.*—
12 *In the event that a laboratory operated by a State or unit*
13 *of local government which has received funds under this Act*
14 *has undergone an external audit conducted to determine*
15 *whether the laboratory is in compliance with standards es-*
16 *tablished by the Director of the Federal Bureau of Investiga-*
17 *tion, and, as a result of such audit, identifies measures to*
18 *remedy deficiencies with respect to the compliance by the*
19 *laboratory with such standards, the State or unit of local*
20 *government shall implement any such remediation as soon*
21 *as practicable.”.*

22 **SEC. 103. EXPANSION OF COMBINED DNA INDEX SYSTEM.**

23 (a) *INCLUSION OF ALL DNA SAMPLES FROM*
24 *STATES.*—Section 210304(a)(1) of the DNA Identification
25 *Act of 1994 (42 U.S.C. 14132(a)(1)) is amended by striking*

1 “of persons convicted of crimes;” and inserting the fol-
 2 lowing: “of—

3 “(A) persons convicted of crimes; and
 4 “(B) other persons whose DNA samples are
 5 collected under applicable legal authorities, pro-
 6 vided that DNA profiles from DNA samples that
 7 are voluntarily submitted solely for elimination
 8 purposes shall not be included in the Combined
 9 DNA Index System;”.

10 (b) *FELONS CONVICTED OF FEDERAL CRIMES.*—Sec-
 11 tion 3(d) of the DNA Analysis Backlog Elimination Act
 12 of 2000 (42 U.S.C. 14135a(d)) is amended to read as fol-
 13 lows:

14 “(d) *QUALIFYING FEDERAL OFFENSES.*—The offenses
 15 that shall be treated for purposes of this section as quali-
 16 fying Federal offenses are the following offenses, as deter-
 17 mined by the Attorney General:

18 “(1) Any felony.

19 “(2) Any offense under chapter 109A of title 18,
 20 United States Code.

21 “(3) Any crime of violence (as that term is de-
 22 fined in section 16 of title 18, United States Code).

23 “(4) Any attempt or conspiracy to commit any
 24 of the offenses in paragraphs (1) through (3).”.

1 (c) *MILITARY OFFENSES*.—Section 1565(d) of title 10,
 2 *United States Code*, is amended to read as follows:

3 “(d) *QUALIFYING MILITARY OFFENSES*.—The offenses
 4 that shall be treated for purposes of this section as quali-
 5 fying military offenses are the following offenses, as deter-
 6 mined by the Secretary of Defense, in consultation with the
 7 Attorney General:

8 “(1) Any offense under the Uniform Code of
 9 Military Justice for which a sentence of confinement
 10 for more than one year may be imposed.

11 “(2) Any other offense under the Uniform Code
 12 of Military Justice that is comparable to a qualifying
 13 Federal offense (as determined under section 3(d) of
 14 the DNA Analysis Backlog Elimination Act of 2000
 15 (42 U.S.C. 14135a(d))).”.

16 (d) *KEYBOARD SEARCHES*.—Section 210304 of the
 17 DNA Identification Act of 1994 (42 U.S.C. 14132), as
 18 amended by subsection (a), is further amended by adding
 19 at the end the following new subsection:

20 “(e) *AUTHORITY FOR KEYBOARD SEARCHES*.—

21 “(1) *IN GENERAL*.—The Director shall ensure
 22 that any person who is authorized to access the index
 23 described in subsection (a) for purposes of including
 24 information on DNA identification records or DNA

1 *analyses in that index may also access that index for*
 2 *purposes of carrying out a keyboard search.*

3 “(2) *DEFINITION.*—For purposes of paragraph
 4 (1), the term ‘keyboard search’ means a search under
 5 which information held by a person is compared with
 6 information in the index without resulting in the in-
 7 formation held by the person being included in the
 8 index.

9 “(3) *NO PREEMPTION.*—This subsection shall not
 10 be construed to preempt State law.”.

11 **SEC. 104. TOLLING OF STATUTE OF LIMITATIONS.**

12 (a) *IN GENERAL.*—Chapter 213 of title 18, United
 13 States Code, is amended by adding at the end the following:

14 **“§ 3297. Cases involving DNA evidence**

15 “In a case in which DNA testing implicates an identi-
 16 fied person in the commission of a felony, except for a felony
 17 offense under chapter 109A, no statute of limitations that
 18 would otherwise preclude prosecution of the offense shall
 19 preclude such prosecution until a period of time following
 20 the implication of the person by DNA testing has elapsed
 21 that is equal to the otherwise applicable limitation period.”.

22 (b) *CLERICAL AMENDMENT.*—The table of sections for
 23 chapter 213 of title 18, United States Code, is amended by
 24 adding at the end the following:

“3297. Cases involving DNA evidence.”.

1 (c) *APPLICATION.*—*The amendments made by this sec-*
 2 *tion shall apply to the prosecution of any offense committed*
 3 *before, on, or after the date of the enactment of this section*
 4 *if the applicable limitation period has not yet expired.*

5 **SEC. 105. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.**

6 *Section 1201 of the Violence Against Women Act of*
 7 *2000 (42 U.S.C. 3796gg–6) is amended—*

8 (1) *in subsection (a), by inserting “dating vio-*
 9 *lence,” after “domestic violence,”;*

10 (2) *in subsection (b)—*

11 (A) *by redesignating paragraphs (1)*
 12 *through (3) as paragraphs (2) through (4), re-*
 13 *spectively;*

14 (B) *by inserting before paragraph (2), as*
 15 *redesignated by subparagraph (A), the following:*

16 “(1) *DATING VIOLENCE.*—*The term ‘dating vio-*
 17 *lence’ means violence committed by a person who is*
 18 *or has been in a social relationship of a romantic or*
 19 *intimate nature with the victim. The existence of such*
 20 *a relationship shall be determined based on a consid-*
 21 *eration of—*

22 “(A) *the length of the relationship;*

23 “(B) *the type of relationship; and*

24 “(C) *the frequency of interaction between*
 25 *the persons involved in the relationship.”; and*

1 (C) in paragraph (3), as redesignated by
2 subparagraph (A), by inserting “dating vio-
3 lence,” after “domestic violence,”;

4 (3) in subsection (c)—

5 (A) in paragraph (1)—

6 (i) by inserting “, dating violence,”
7 after “between domestic violence”; and

8 (ii) by inserting “dating violence,”
9 after “victims of domestic violence,”;

10 (B) in paragraph (2), by inserting “dating
11 violence,” after “domestic violence,”; and

12 (C) in paragraph (3), by inserting “dating
13 violence,” after “domestic violence,”;

14 (4) in subsection (d)—

15 (A) in paragraph (1), by inserting “, dat-
16 ing violence,” after “domestic violence”;

17 (B) in paragraph (2), by inserting “, dat-
18 ing violence,” after “domestic violence”;

19 (C) in paragraph (3), by inserting “, dat-
20 ing violence,” after “domestic violence”; and

21 (D) in paragraph (4), by inserting “dating
22 violence,” after “domestic violence,”;

23 (5) in subsection (e), by inserting “dating vio-
24 lence,” after “domestic violence,”; and

1 (6) in subsection (f)(2)(A), by inserting “dating
2 violence,” after “domestic violence,”.

3 **SEC. 106. ENSURING PRIVATE LABORATORY ASSISTANCE IN**
4 **ELIMINATING DNA BACKLOG.**

5 Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(d)(3)) is amended to
6 read as follows:

8 “(3) *USE OF VOUCHERS OR CONTRACTS FOR*
9 *CERTAIN PURPOSES.*—

10 “(A) *IN GENERAL.*—A grant for the purposes specified in paragraph (1), (2), or (5) of
11 subsection (a) may be made in the form of a
12 voucher or contract for laboratory services.

14 “(B) *REDEMPTION.*—A voucher or contract
15 under subparagraph (A) may be redeemed at a
16 laboratory operated by a private entity that satisfies quality assurance standards and has been
17 approved by the Attorney General.

19 “(C) *PAYMENTS.*—The Attorney General
20 may use amounts authorized under subsection (j)
21 to make payments to a laboratory described
22 under subparagraph (B).”.

1 ***TITLE II—DNA SEXUAL ASSAULT***
2 ***JUSTICE ACT OF 2003***

3 ***SEC. 201. SHORT TITLE.***

4 *This title may be cited as the “DNA Sexual Assault*
5 *Justice Act of 2003”.*

6 ***SEC. 202. ENSURING PUBLIC CRIME LABORATORY COMPLI-***
7 ***ANCE WITH FEDERAL STANDARDS.***

8 *Section 210304(b)(2) of the DNA Identification Act of*
9 *1994 (42 U.S.C. 14132(b)(2)) is amended to read as follows:*

10 *“(2) prepared by laboratories that—*

11 *“(A) not later than 2 years after the date*
12 *of enactment of the DNA Sexual Assault Justice*
13 *Act of 2003, have been accredited by a nonprofit*
14 *professional association of persons actively in-*
15 *volved in forensic science that is nationally rec-*
16 *ognized within the forensic science community;*
17 *and*

18 *“(B) undergo external audits, not less than*
19 *once every 2 years, that demonstrate compliance*
20 *with standards established by the Director of the*
21 *Federal Bureau of Investigation; and”.*

1 **SEC. 203. DNA TRAINING AND EDUCATION FOR LAW EN-**
2 **FORCEMENT, CORRECTIONAL PERSONNEL,**
3 **AND COURT OFFICERS.**

4 (a) *IN GENERAL.*—*The Attorney General shall make*
5 *grants to States and units of local government to provide*
6 *training, technical assistance, education, and information*
7 *relating to the identification, collection, preservation, anal-*
8 *ysis, and use of DNA samples and DNA evidence by—*

9 (1) *law enforcement personnel, including police*
10 *officers and other first responders, evidence techni-*
11 *cians, investigators, and others who collect or examine*
12 *evidence of crime;*

13 (2) *court officers, including State and local pros-*
14 *ecutors, defense lawyers, and judges;*

15 (3) *forensic science professionals; and*

16 (4) *corrections personnel, including prison and*
17 *jail personnel, and probation, parole, and other offi-*
18 *cers involved in supervision.*

19 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
20 *authorized to be appropriated \$12,500,000 for each of fiscal*
21 *years 2005 through 2009 to carry out this section.*

22 **SEC. 204. SEXUAL ASSAULT FORENSIC EXAM PROGRAM**
23 **GRANTS.**

24 (a) *IN GENERAL.*—*The Attorney General shall make*
25 *grants to eligible entities to provide training, technical as-*
26 *sistance, education, equipment, and information relating to*

1 *the identification, collection, preservation, analysis, and use*
2 *of DNA samples and DNA evidence by medical personnel*
3 *and other personnel, including doctors, medical examiners,*
4 *coroners, nurses, victim service providers, and other profes-*
5 *sionals involved in treating victims of sexual assault and*
6 *sexual assault examination programs, including SANE*
7 *(Sexual Assault Nurse Examiner), SAFE (Sexual Assault*
8 *Forensic Examiner), and SART (Sexual Assault Response*
9 *Team).*

10 (b) *ELIGIBLE ENTITY.—For purposes of this section,*
11 *the term “eligible entity” includes—*

12 (1) *States;*

13 (2) *units of local government; and*

14 (3) *sexual assault examination programs, in-*
15 *cluding—*

16 (A) *sexual assault nurse examiner (SANE)*
17 *programs;*

18 (B) *sexual assault forensic examiner*
19 *(SAFE) programs;*

20 (C) *sexual assault response team (SART)*
21 *programs;*

22 (D) *State sexual assault coalitions;*

23 (E) *medical personnel, including doctors,*
24 *medical examiners, coroners, and nurses, in-*
25 *volved in treating victims of sexual assault; and*

1 (F) *victim service providers involved in*
2 *treating victims of sexual assault.*

3 (c) *AUTHORIZATION OF APPROPRIATIONS.—There are*
4 *authorized to be appropriated \$30,000,000 for each of fiscal*
5 *years 2005 through 2009 to carry out this section.*

6 **SEC. 205. DNA RESEARCH AND DEVELOPMENT.**

7 (a) *IMPROVING DNA TECHNOLOGY.—The Attorney*
8 *General shall make grants for research and development to*
9 *improve forensic DNA technology, including increasing the*
10 *identification accuracy and efficiency of DNA analysis, de-*
11 *creasing time and expense, and increasing portability.*

12 (b) *DEMONSTRATION PROJECTS.—The Attorney Gen-*
13 *eral shall make grants to appropriate entities under which*
14 *research is carried out through demonstration projects in-*
15 *volving coordinated training and commitment of resources*
16 *to law enforcement agencies and key criminal justice par-*
17 *ticipants to demonstrate and evaluate the use of forensic*
18 *DNA technology in conjunction with other forensic tools.*
19 *The demonstration projects shall include scientific evalua-*
20 *tion of the public safety benefits, improvements to law en-*
21 *forcement operations, and cost-effectiveness of increased col-*
22 *lection and use of DNA evidence.*

23 (c) *NATIONAL FORENSIC SCIENCE COMMISSION.—*

24 (1) *APPOINTMENT.—The Attorney General shall*
25 *appoint a National Forensic Science Commission (in*

1 *this section referred to as the “Commission”), com-*
2 *posed of persons experienced in criminal justice*
3 *issues, including persons from the forensic science and*
4 *criminal justice communities, to carry out the respon-*
5 *sibilities under paragraph (2).*

6 (2) *RESPONSIBILITIES.—The Commission*
7 *shall—*

8 (A) *assess the present and future resource*
9 *needs of the forensic science community;*

10 (B) *make recommendations to the Attorney*
11 *General for maximizing the use of forensic tech-*
12 *nologies and techniques to solve crimes and pro-*
13 *tect the public;*

14 (C) *identify potential scientific advances*
15 *that may assist law enforcement in using foren-*
16 *sic technologies and techniques to protect the*
17 *public;*

18 (D) *make recommendations to the Attorney*
19 *General for programs that will increase the num-*
20 *ber of qualified forensic scientists available to*
21 *work in public crime laboratories;*

22 (E) *disseminate, through the National Insti-*
23 *tute of Justice, best practices concerning the col-*
24 *lection and analyses of forensic evidence to help*
25 *ensure quality and consistency in the use of fo-*

1 *rensic technologies and techniques to solve crimes*
2 *and protect the public;*

3 *(F) examine additional issues pertaining to*
4 *forensic science as requested by the Attorney*
5 *General;*

6 *(G) examine Federal, State, and local pri-*
7 *vacancy protection statutes, regulations, and prac-*
8 *tices relating to access to, or use of, stored DNA*
9 *samples or DNA analyses, to determine whether*
10 *such protections are sufficient;*

11 *(H) make specific recommendations to the*
12 *Attorney General, as necessary, to enhance the*
13 *protections described in subparagraph (G) to en-*
14 *sure—*

15 *(i) the appropriate use and dissemina-*
16 *tion of DNA information;*

17 *(ii) the accuracy, security, and con-*
18 *fidentiality of DNA information;*

19 *(iii) the timely removal and destruc-*
20 *tion of obsolete, expunged, or inaccurate*
21 *DNA information; and*

22 *(iv) that any other necessary measures*
23 *are taken to protect privacy; and*

24 *(I) provide a forum for the exchange and*
25 *dissemination of ideas and information in fur-*

1 *therance of the objectives described in subpara-*
 2 *graphs (A) through (H).*

3 (3) *PERSONNEL; PROCEDURES.—The Attorney*
 4 *General shall—*

5 (A) *designate the Chair of the Commission*
 6 *from among its members;*

7 (B) *designate any necessary staff to assist*
 8 *in carrying out the functions of the Commission;*
 9 *and*

10 (C) *establish procedures and guidelines for*
 11 *the operations of the Commission.*

12 (d) *AUTHORIZATION OF APPROPRIATIONS.—There are*
 13 *authorized to be appropriated \$15,000,000 for each of fiscal*
 14 *years 2005 through 2009 to carry out this section.*

15 **SEC. 206. FBI DNA PROGRAMS.**

16 (a) *AUTHORIZATION OF APPROPRIATIONS.—There are*
 17 *authorized to be appropriated to the Federal Bureau of In-*
 18 *vestigation \$42,100,000 for each of fiscal years 2005*
 19 *through 2009 to carry out the DNA programs and activities*
 20 *described under subsection (b).*

21 (b) *PROGRAMS AND ACTIVITIES.—The Federal Bureau*
 22 *of Investigation may use any amounts appropriated pursu-*
 23 *ant to subsection (a) for—*

24 (1) *nuclear DNA analysis;*

25 (2) *mitochondrial DNA analysis;*

- 1 (3) *regional mitochondrial DNA laboratories;*
- 2 (4) *the Combined DNA Index System;*
- 3 (5) *the Federal Convicted Offender DNA Pro-*
- 4 *gram; and*
- 5 (6) *DNA research and development.*

6 **SEC. 207. DNA IDENTIFICATION OF MISSING PERSONS.**

7 (a) *IN GENERAL.*—*The Attorney General shall make*
 8 *grants to States and units of local government to promote*
 9 *the use of forensic DNA technology to identify missing per-*
 10 *sons and unidentified human remains.*

11 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 12 *authorized to be appropriated \$2,000,000 for each of fiscal*
 13 *years 2005 through 2009 to carry out this section.*

14 **SEC. 208. ENHANCED CRIMINAL PENALTIES FOR UNAU-**
 15 **THORIZED DISCLOSURE OR USE OF DNA IN-**
 16 **FORMATION.**

17 *Section 10(c) of the DNA Analysis Backlog Elimini-*
 18 *nation Act of 2000 (42 U.S.C. 14135e(c)) is amended to*
 19 *read as follows:*

20 “(c) *CRIMINAL PENALTY.*—*A person who knowingly*
 21 *discloses a sample or result described in subsection (a) in*
 22 *any manner to any person not authorized to receive it, or*
 23 *obtains or uses, without authorization, such sample or re-*
 24 *sult, shall be fined not more than \$100,000. Each instance*

1 *of disclosure, obtaining, or use shall constitute a separate*
 2 *offense under this subsection.”.*

3 **SEC. 209. TRIBAL COALITION GRANTS.**

4 *Section 2001 of title I of the Omnibus Crime Control*
 5 *and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended*
 6 *by adding at the end the following:*

7 “(d) *TRIBAL COALITION GRANTS.*—

8 “(1) *PURPOSE.*—*The Attorney General shall*
 9 *award grants to tribal domestic violence and sexual*
 10 *assault coalitions for purposes of—*

11 “(A) *increasing awareness of domestic vio-*
 12 *lence and sexual assault against Indian women;*

13 “(B) *enhancing the response to violence*
 14 *against Indian women at the tribal, Federal,*
 15 *and State levels; and*

16 “(C) *identifying and providing technical*
 17 *assistance to coalition membership and tribal*
 18 *communities to enhance access to essential serv-*
 19 *ices to Indian women victimized by domestic*
 20 *and sexual violence.*

21 “(2) *GRANTS TO TRIBAL COALITIONS.*—*The At-*
 22 *torney General shall award grants under paragraph*
 23 *(1) to—*

1 “(A) established nonprofit, nongovernmental
2 tribal coalitions addressing domestic violence
3 and sexual assault against Indian women; and

4 “(B) individuals or organizations that pro-
5 pose to incorporate as nonprofit, nongovern-
6 mental tribal coalitions to address domestic vio-
7 lence and sexual assault against Indian women.

8 “(3) *ELIGIBILITY FOR OTHER GRANTS.*—Receipt
9 of an award under this subsection by tribal domestic
10 violence and sexual assault coalitions shall not pre-
11 clude the coalition from receiving additional grants
12 under this title to carry out the purposes described in
13 subsection (b).”.

14 **SEC. 210. EXPANSION OF PAUL COVERDELL FORENSIC**
15 **SCIENCES IMPROVEMENT GRANT PROGRAM.**

16 (a) *FORENSIC BACKLOG ELIMINATION GRANTS.*—Sec-
17 tion 2804 of the Omnibus Crime Control and Safe Streets
18 Act of 1968 (42 U.S.C. 3797m) is amended—

19 (1) in subsection (a)—

20 (A) by striking “shall use the grant to carry
21 out” and inserting “shall use the grant to do any
22 one or more of the following:

23 “(1) To carry out”; and

24 (B) by adding at the end the following:

1 “(2) *To eliminate a backlog in the analysis of fo-*
2 *rensic science evidence, including firearms examina-*
3 *tion, latent prints, toxicology, controlled substances,*
4 *forensic pathology, questionable documents, and trace*
5 *evidence.*

6 “(3) *To train, assist, and employ forensic lab-*
7 *oratory personnel, as needed, to eliminate such a*
8 *backlog.*”;

9 (2) *in subsection (b), by striking “under this*
10 *part” and inserting “for the purpose set forth in sub-*
11 *section (a)(1)”*; and

12 (3) *by adding at the end the following:*

13 “(e) *BACKLOG DEFINED.—For purposes of this section,*
14 *a backlog in the analysis of forensic science evidence exists*
15 *if such evidence—*

16 “(1) *has been stored in a laboratory, medical ex-*
17 *aminer’s office, or coroner’s office; and*

18 “(2) *has not been subjected to all appropriate fo-*
19 *rensic testing because of a lack of resources or per-*
20 *sonnel.*”.

21 (b) *EXTERNAL AUDITS.—Section 2802 of the Omnibus*
22 *Crime Control and Safe Streets Act of 1968 (42 U.S.C.*
23 *3797k) is amended—*

24 (1) *in paragraph (2), by striking “and” at the*
25 *end;*

1 (2) *in paragraph (3), by striking the period at*
 2 *the end and inserting “; and”; and*

3 (3) *by adding at the end the following:*

4 “(4) *a certification that a government entity ex-*
 5 *ists and an appropriate process is in place to conduct*
 6 *independent external investigations into allegations of*
 7 *serious negligence or misconduct substantially affect-*
 8 *ing the integrity of the forensic results committed by*
 9 *employees or contractors of any forensic laboratory*
 10 *system, medical examiner’s office, or coroner’s office*
 11 *in the State that will receive a portion of the grant*
 12 *amount.”.*

13 (c) *THREE-YEAR EXTENSION OF AUTHORIZATION OF*
 14 *APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus*
 15 *Crime Control and Safe Streets Act of 1968 (42 U.S.C.*
 16 *3793(a)(24)) is amended—*

17 (1) *in subparagraph (E), by striking “and” at*
 18 *the end;*

19 (2) *in subparagraph (F), by striking the period*
 20 *at the end and inserting a semicolon; and*

21 (3) *by adding at the end the following:*

22 “(G) \$20,000,000 for fiscal year 2007;

23 “(H) \$20,000,000 for fiscal year 2008; and

24 “(I) \$20,000,000 for fiscal year 2009.”.

1 (d) *TECHNICAL AMENDMENT.*—Section 1001(a) of
 2 such Act, as amended by subsection (c), is further amended
 3 by realigning paragraphs (24) and (25) so as to be flush
 4 with the left margin.

5 **SEC. 211. REPORT TO CONGRESS.**

6 (a) *IN GENERAL.*—Not later than 2 years after the
 7 date of enactment of this Act, the Attorney General shall
 8 submit to Congress a report on the implementation of this
 9 Act and the amendments made by this Act.

10 (b) *CONTENTS.*—The report submitted under sub-
 11 section (a) shall include a description of—

12 (1) the progress made by Federal, State, and
 13 local entities in—

14 (A) collecting and entering DNA samples
 15 from offenders convicted of qualifying offenses for
 16 inclusion in the Combined DNA Index System
 17 (referred to in this subsection as “CODIS”);

18 (B) analyzing samples from crime scenes,
 19 including evidence collected from sexual assaults
 20 and other serious violent crimes, and entering
 21 such DNA analyses in CODIS; and

22 (C) increasing the capacity of forensic lab-
 23 oratories to conduct DNA analyses;

1 (2) *the priorities and plan for awarding grants*
2 *among eligible States and units of local government*
3 *to ensure that the purposes of this Act are carried out;*

4 (3) *the distribution of grant amounts under this*
5 *Act among eligible States and local governments, and*
6 *whether the distribution of such funds has served the*
7 *purposes of the Debbie Smith DNA Backlog Grant*
8 *Program;*

9 (4) *grants awarded and the use of such grants by*
10 *eligible entities for DNA training and education pro-*
11 *grams for law enforcement, correctional personnel,*
12 *court officers, medical personnel, victim service pro-*
13 *viders, and other personnel authorized under sections*
14 *203 and 204;*

15 (5) *grants awarded and the use of such grants by*
16 *eligible entities to conduct DNA research and develop-*
17 *ment programs to improve forensic DNA technology,*
18 *and implement demonstration projects under section*
19 *205;*

20 (6) *the steps taken to establish the National Fo-*
21 *rensic Science Commission, and the activities of the*
22 *Commission under section 205(c);*

23 (7) *the use of funds by the Federal Bureau of In-*
24 *vestigation under section 206;*

1 (8) *grants awarded and the use of such grants by*
 2 *eligible entities to promote the use of forensic DNA*
 3 *technology to identify missing persons and unidenti-*
 4 *fied human remains under section 207;*

5 (9) *grants awarded and the use of such grants by*
 6 *eligible entities to eliminate forensic science backlogs*
 7 *under the amendments made by section 210;*

8 (10) *State compliance with the requirements set*
 9 *forth in section 313; and*

10 (11) *any other matters considered relevant by the*
 11 *Attorney General.*

12 ***TITLE III—INNOCENCE***
 13 ***PROTECTION ACT OF 2003***

14 ***SEC. 301. SHORT TITLE.***

15 *This title may be cited as the “Innocence Protection*
 16 *Act of 2003”.*

17 ***Subtitle A—Exonerating the***
 18 ***Innocent Through DNA Testing***

19 ***SEC. 311. FEDERAL POST-CONVICTION DNA TESTING.***

20 ***(a) FEDERAL CRIMINAL PROCEDURE.—***

21 (1) *IN GENERAL.—Part II of title 18, United*
 22 *States Code, is amended by inserting after chapter*
 23 *228 the following:*

1 **“CHAPTER 228A—POST-CONVICTION DNA**
2 **TESTING**

“Sec.

“3600. DNA testing.

“3600A. Preservation of biological evidence.

3 **“§ 3600. DNA testing**

4 “(a) *IN GENERAL.*—Upon a written motion by an in-
5 dividual under a sentence of imprisonment or death pursu-
6 ant to a conviction for a Federal offense (referred to in this
7 section as the ‘applicant’), the court that entered the judg-
8 ment of conviction shall order DNA testing of specific evi-
9 dence if—

10 “(1) the applicant asserts, under penalty of per-
11 jury, that the applicant is actually innocent of—

12 “(A) the Federal offense for which the appli-
13 cant is under a sentence of imprisonment or
14 death; or

15 “(B) another Federal or State offense, if—

16 “(i)(I) such offense was legally nec-
17 essary to make the applicant eligible for a
18 sentence as a career offender under section
19 3559(e) or an armed career offender under
20 section 924(e), and exoneration of such of-
21 fense would entitle the applicant to a re-
22 duced sentence; or

23 “(II) evidence of such offense was ad-
24 mitted during a Federal death sentencing

1 *hearing and exoneration of such offense*
2 *would entitle the applicant to a reduced*
3 *sentence or new sentencing hearing; and*

4 “(ii) in the case of a State offense—

5 “(I) the applicant demonstrates
6 that there is no adequate remedy under
7 State law to permit DNA testing of the
8 specified evidence relating to the State
9 offense; and

10 “(II) to the extent available, the
11 applicant has exhausted all remedies
12 available under State law for request-
13 ing DNA testing of specified evidence
14 relating to the State offense;

15 “(2) the specific evidence to be tested was secured
16 in relation to the investigation or prosecution of the
17 Federal or State offense referenced in the applicant’s
18 assertion under paragraph (1);

19 “(3) the specific evidence to be tested—

20 “(A) was not previously subjected to DNA
21 testing and the applicant did not knowingly and
22 voluntarily waive the right to request DNA test-
23 ing of that evidence in a court proceeding after
24 the date of enactment of the Innocence Protection
25 Act of 2003; or

1 “(B) was previously subjected to DNA test-
2 ing and the applicant is requesting DNA testing
3 using a new method or technology that is sub-
4 stantially more probative than the prior DNA
5 testing;

6 “(4) the specific evidence to be tested is in the
7 possession of the Government and has been subject to
8 a chain of custody and retained under conditions suf-
9 ficient to ensure that such evidence has not been sub-
10 stituted, contaminated, tampered with, replaced, or
11 altered in any respect material to the proposed DNA
12 testing;

13 “(5) the proposed DNA testing is reasonable in
14 scope, uses scientifically sound methods, and is con-
15 sistent with accepted forensic practices;

16 “(6) the applicant identifies a theory of defense
17 that—

18 “(A) is not inconsistent with an affirmative
19 defense presented at trial; and

20 “(B) would establish the actual innocence of
21 the applicant of the Federal or State offense ref-
22 erenced in the applicant’s assertion under para-
23 graph (1);

1 “(7) if the applicant was convicted following a
2 trial, the identity of the perpetrator was at issue in
3 the trial;

4 “(8) the proposed DNA testing of the specific evi-
5 dence—

6 “(A) would produce new material evidence
7 to support the theory of defense referenced in
8 paragraph (6); and

9 “(B) assuming the DNA test result excludes
10 the applicant, would raise a reasonable prob-
11 ability that the applicant did not commit the of-
12 fense;

13 “(9) the applicant certifies that the applicant
14 will provide a DNA sample for purposes of compari-
15 son; and

16 “(10) the applicant’s motion is filed for the pur-
17 pose of demonstrating the applicant’s actual inno-
18 cence of the Federal or State offense, and not to delay
19 the execution of the sentence or the administration of
20 justice.

21 “(b) NOTICE TO THE GOVERNMENT; PRESERVATION
22 ORDER; APPOINTMENT OF COUNSEL.—

23 “(1) NOTICE.—Upon the receipt of a motion
24 filed under subsection (a), the court shall—

25 “(A) notify the Government; and

1 “(B) allow the Government a reasonable
2 time period to respond to the motion.

3 “(2) *PRESERVATION ORDER.*—To the extent nec-
4 essary to carry out proceedings under this section, the
5 court shall direct the Government to preserve the spe-
6 cific evidence relating to a motion under subsection
7 (a).

8 “(3) *APPOINTMENT OF COUNSEL.*—The court
9 may appoint counsel for an indigent applicant under
10 this section in the same manner as in a proceeding
11 under section 3006A(a)(2)(B).

12 “(c) *TESTING PROCEDURES.*—

13 “(1) *IN GENERAL.*—The court shall direct that
14 any DNA testing ordered under this section be carried
15 out by the Federal Bureau of Investigation.

16 “(2) *EXCEPTION.*—Notwithstanding paragraph
17 (1), the court may order DNA testing by another
18 qualified laboratory if the court makes all necessary
19 orders to ensure the integrity of the specific evidence
20 and the reliability of the testing process and test re-
21 sults.

22 “(3) *COSTS.*—The costs of any DNA testing or-
23 dered under this section shall be paid—

24 “(A) by the applicant; or

1 “(B) *in the case of an applicant who is in-*
 2 *igent, by the Government.*

3 “(d) *TIME LIMITATION IN CAPITAL CASES.—In any*
 4 *case in which the applicant is sentenced to death—*

5 “(1) *any DNA testing ordered under this section*
 6 *shall be completed not later than 60 days after the*
 7 *date on which the Government responds to the motion*
 8 *filed under subsection (a); and*

9 “(2) *not later than 120 days after the date on*
 10 *which the DNA testing ordered under this section is*
 11 *completed, the court shall order any post-testing pro-*
 12 *cedures under subsection (f) or (g), as appropriate.*

13 “(e) *REPORTING OF TEST RESULTS.—*

14 “(1) *IN GENERAL.—The results of any DNA test-*
 15 *ing ordered under this section shall be simultaneously*
 16 *disclosed to the court, the applicant, and the Govern-*
 17 *ment.*

18 “(2) *NDIS.—The Government shall submit any*
 19 *test results relating to the DNA of the applicant to the*
 20 *National DNA Index System (referred to in this sub-*
 21 *section as ‘NDIS’).*

22 “(3) *RETENTION OF DNA SAMPLE.—*

23 “(A) *ENTRY INTO NDIS.—If the DNA test*
 24 *results obtained under this section are inconclu-*
 25 *sive or show that the applicant was the source of*

1 *the DNA evidence, the DNA sample of the appli-*
2 *cant may be retained in NDIS.*

3 *“(B) MATCH WITH OTHER OFFENSE.—If the*
4 *DNA test results obtained under this section ex-*
5 *clude the applicant as the source of the DNA evi-*
6 *dence, and a comparison of the DNA sample of*
7 *the applicant results in a match between the*
8 *DNA sample of the applicant and another of*
9 *fense, the Attorney General shall notify the ap-*
10 *propriate agency and preserve the DNA sample*
11 *of the applicant.*

12 *“(C) NO MATCH.—If the DNA test results*
13 *obtained under this section exclude the applicant*
14 *as the source of the DNA evidence, and a com-*
15 *parison of the DNA sample of the applicant does*
16 *not result in a match between the DNA sample*
17 *of the applicant and another offense, the Attor-*
18 *ney General shall destroy the DNA sample of the*
19 *applicant and ensure that such information is*
20 *not retained in NDIS if there is no other legal*
21 *authority to retain the DNA sample of the appli-*
22 *cant in NDIS.*

23 *“(f) POST-TESTING PROCEDURES; INCONCLUSIVE AND*
24 *INCULPATORY RESULTS.—*

1 “(1) *INCONCLUSIVE RESULTS.*—If DNA test re-
2 sults obtained under this section are inconclusive, the
3 court may order further testing, if appropriate, or
4 may deny the applicant relief.

5 “(2) *INCU LPATORY RESULTS.*—If DNA test re-
6 sults obtained under this section show that the appli-
7 cant was the source of the DNA evidence, the court
8 shall—

9 “(A) deny the applicant relief; and

10 “(B) on motion of the Government—

11 “(i) make a determination whether the
12 applicant’s assertion of actual innocence
13 was false, and, if the court makes such a
14 finding, the court may hold the applicant
15 in contempt;

16 “(ii) assess against the applicant the
17 cost of any DNA testing carried out under
18 this section;

19 “(iii) forward the finding to the Direc-
20 tor of the Bureau of Prisons, who, upon re-
21 ceipt of such a finding, may deny, wholly or
22 in part, the good conduct credit authorized
23 under section 3632 on the basis of that find-
24 ing;

1 “(iv) if the applicant is subject to the
2 jurisdiction of the United States Parole
3 Commission, forward the finding to the
4 Commission so that the Commission may
5 deny parole on the basis of that finding;
6 and

7 “(v) if the DNA test results relate to a
8 State offense, forward the finding to any
9 appropriate State official.

10 “(3) SENTENCE.—In any prosecution of an ap-
11 plicant under chapter 79 for false assertions or other
12 conduct in proceedings under this section, the court,
13 upon conviction of the applicant, shall sentence the
14 applicant to a term of imprisonment of not less than
15 3 years, which shall run consecutively to any other
16 term of imprisonment the applicant is serving.

17 “(g) POST-TESTING PROCEDURES; MOTION FOR NEW
18 TRIAL OR RESENTENCING.—

19 “(1) IN GENERAL.—Notwithstanding any law
20 that would bar a motion under this paragraph as un-
21 timely, if DNA test results obtained under this section
22 exclude the applicant as the source of the DNA evi-
23 dence, the applicant may file a motion for a new trial
24 or resentencing, as appropriate. The court shall estab-
25 lish a reasonable schedule for the applicant to file

1 *such a motion and for the Government to respond to*
2 *the motion.*

3 “(2) *STANDARD FOR GRANTING MOTION FOR NEW*
4 *TRIAL OR RESENTENCING.—The court shall grant the*
5 *motion of the applicant for a new trial or resen-*
6 *tencing, as appropriate, if the DNA test results, when*
7 *considered with all other evidence in the case (regard-*
8 *less of whether such evidence was introduced at trial),*
9 *establish by a preponderance of the evidence that a*
10 *new trial would result in an acquittal of—*

11 “(A) *in the case of a motion for a new trial,*
12 *the Federal offense for which the applicant is*
13 *under a sentence of imprisonment or death; and*

14 “(B) *in the case of a motion for resen-*
15 *tencing, another Federal or State offense, if—*

16 “(i) *such offense was legally necessary*
17 *to make the applicant eligible for a sentence*
18 *as a career offender under section 3559(e)*
19 *or an armed career offender under section*
20 *924(e), and exoneration of such offense*
21 *would entitle the applicant to a reduced*
22 *sentence; or*

23 “(ii) *evidence of such offense was ad-*
24 *mitted during a Federal death sentencing*
25 *hearing and exoneration of such offense*

1 *would entitle the applicant to a reduced*
 2 *sentence or a new sentencing proceeding.*

3 “(h) *OTHER LAWS UNAFFECTED.*—

4 “(1) *POST-CONVICTION RELIEF.*—*Nothing in this*
 5 *section shall affect the circumstances under which a*
 6 *person may obtain DNA testing or post-conviction re-*
 7 *lief under any other law.*

8 “(2) *HABEAS CORPUS.*—*Nothing in this section*
 9 *shall provide a basis for relief in any Federal habeas*
 10 *corpus proceeding.*

11 “(3) *APPLICATION NOT A MOTION.*—*An applica-*
 12 *tion under this section shall not be considered to be*
 13 *a motion under section 2255 for purposes of deter-*
 14 *mining whether the application or any other motion*
 15 *is a second or successive motion under section 2255.*

16 **“§ 3600A. Preservation of biological evidence**

17 “(a) *IN GENERAL.*—*Notwithstanding any other provi-*
 18 *sion of law, the Government shall preserve biological evi-*
 19 *dence that was secured in the investigation or prosecution*
 20 *of a Federal offense, if a defendant is under a sentence of*
 21 *imprisonment for such offense.*

22 “(b) *DEFINED TERM.*—*For purposes of this section,*
 23 *the term ‘biological evidence’ means—*

24 “(1) *a sexual assault forensic examination kit; or*

1 “(2) semen, blood, saliva, hair, skin tissue, or
2 *other identified biological material.*

3 “(c) *APPLICABILITY.—Subsection (a) shall not apply*
4 *if—*

5 “(1) *a court has denied a request or motion for*
6 *DNA testing of the biological evidence by the defend-*
7 *ant under section 3600, and no appeal is pending;*

8 “(2) *the defendant knowingly and voluntarily*
9 *waived the right to request DNA testing of such evi-*
10 *dence in a court proceeding conducted after the date*
11 *of enactment of the Innocence Protection Act of 2003;*

12 “(3) *the defendant is notified after conviction*
13 *that the biological evidence may be destroyed and the*
14 *defendant does not file a motion under section 3600*
15 *within 180 days of receipt of the notice; or*

16 “(4)(A) *the evidence must be returned to its*
17 *rightful owner, or is of such a size, bulk, or physical*
18 *character as to render retention impracticable; and*

19 “(B) *the Government takes reasonable measures*
20 *to remove and preserve portions of the material evi-*
21 *dence sufficient to permit future DNA testing.*

22 “(d) *OTHER PRESERVATION REQUIREMENT.—Nothing*
23 *in this section shall preempt or supersede any statute, regu-*
24 *lation, court order, or other provision of law that may re-*

1 *quire evidence, including biological evidence, to be pre-*
 2 *served.*

3 “(e) *REGULATIONS.*—*Not later than 180 days after the*
 4 *date of enactment of the Innocence Protection Act of 2003,*
 5 *the Attorney General shall promulgate regulations to imple-*
 6 *ment and enforce this section, including appropriate dis-*
 7 *ciplinary sanctions to ensure that employees comply with*
 8 *such regulations.*

9 “(f) *CRIMINAL PENALTY.*—*Whoever knowingly and in-*
 10 *tentionally destroys, alters, or tampers with biological evi-*
 11 *dence that is required to be preserved under this section*
 12 *with the intent to prevent that evidence from being subjected*
 13 *to DNA testing or prevent the production or use of that*
 14 *evidence in an official proceeding, shall be fined under this*
 15 *title, imprisoned for not more than 5 years, or both.*

16 “(g) *HABEAS CORPUS.*—*Nothing in this section shall*
 17 *provide a basis for relief in any Federal habeas corpus pro-*
 18 *ceeding.”.*

19 (2) *CLERICAL AMENDMENT.*—*The chapter anal-*
 20 *ysis for part II of title 18, United States Code, is*
 21 *amended by inserting after the item relating to chap-*
 22 *ter 228 the following:*

“228A. Post-conviction DNA testing 3600”.

23 (b) *SYSTEM FOR REPORTING MOTIONS.*—

24 (1) *ESTABLISHMENT.*—*The Attorney General*
 25 *shall establish a system for reporting and tracking*

1 *motions filed in accordance with section 3600 of title*
2 *18, United States Code.*

3 (2) *OPERATION.*—*In operating the system estab-*
4 *lished under paragraph (1), the Federal courts shall*
5 *provide to the Attorney General any requested assist-*
6 *ance in operating such a system and in ensuring the*
7 *accuracy and completeness of information included in*
8 *that system.*

9 (3) *REPORT.*—*Not later than 2 years after the*
10 *date of enactment of this Act, the Attorney General*
11 *shall submit a report to Congress that contains—*

12 (A) *a list of motions filed under section*
13 *3600 of title 18, United States Code, as added by*
14 *this Act;*

15 (B) *whether DNA testing was ordered pur-*
16 *suant to such a motion;*

17 (C) *whether the applicant obtained relief on*
18 *the basis of DNA test results; and*

19 (D) *whether further proceedings occurred*
20 *following a granting of relief and the outcome of*
21 *such proceedings.*

22 (4) *ADDITIONAL INFORMATION.*—*The report re-*
23 *quired to be submitted under paragraph (3) may in-*
24 *clude any other information the Attorney General de-*
25 *termines to be relevant in assessing the operation,*

1 *utility, or costs of section 3600 of title 18, United*
 2 *States Code, as added by this Act, and any rec-*
 3 *ommendations the Attorney General may have relat-*
 4 *ing to future legislative action concerning that sec-*
 5 *tion.*

6 (c) *EFFECTIVE DATE; APPLICABILITY.*—*This section*
 7 *and the amendments made by this section shall take effect*
 8 *on the date of enactment of this Act and shall apply with*
 9 *respect to any offense committed, and to any judgment of*
 10 *conviction entered, before, on, or after that date of enact-*
 11 *ment.*

12 **SEC. 312. KIRK BLOODSWORTH POST-CONVICTION DNA**
 13 **TESTING GRANT PROGRAM.**

14 (a) *IN GENERAL.*—*The Attorney General shall estab-*
 15 *lish the Kirk Bloodsworth Post-Conviction DNA Testing*
 16 *Grant Program to award grants to States to help defray*
 17 *the costs of post-conviction DNA testing.*

18 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 19 *authorized to be appropriated \$5,000,000 for each of fiscal*
 20 *years 2005 through 2009 to carry out this section.*

21 (c) *STATE DEFINED.*—*For purposes of this section, the*
 22 *term “State” means a State of the United States, the Dis-*
 23 *trict of Columbia, the Commonwealth of Puerto Rico, the*
 24 *United States Virgin Islands, American Samoa, Guam,*
 25 *and the Northern Mariana Islands.*

1 **SEC. 313. INCENTIVE GRANTS TO STATES TO ENSURE CON-**
2 **SIDERATION OF CLAIMS OF ACTUAL INNO-**
3 **CENCE.**

4 *For each of fiscal years 2005 through 2009, all funds*
5 *appropriated to carry out sections 203, 205, 207, and 312*
6 *shall be reserved for grants to eligible entities that—*

7 *(1) meet the requirements under section 203,*
8 *205, 207, or 312, as appropriate; and*

9 *(2) demonstrate that the State in which the eligi-*
10 *ble entity operates—*

11 *(A) provides post-conviction DNA testing of*
12 *specified evidence—*

13 *(i) under a State statute enacted before*
14 *the date of enactment of this Act (or ex-*
15 *tended or renewed after such date), to any*
16 *person convicted after trial and under a*
17 *sentence of imprisonment or death for a*
18 *State offense, in a manner that ensures a*
19 *meaningful process for resolving a claim of*
20 *actual innocence; or*

21 *(ii) under a State statute enacted after*
22 *the date of enactment of this Act, or under*
23 *a State rule, regulation, or practice, to any*
24 *person under a sentence of imprisonment or*
25 *death for a State offense, in a manner com-*
26 *parable to section 3600(a) of title 18,*

1 *United States Code (provided that the State*
2 *statute, rule, regulation, or practice may*
3 *make post-conviction DNA testing available*
4 *in cases in which such testing is not re-*
5 *quired by such section), and if the results of*
6 *such testing exclude the applicant, permits*
7 *the applicant to apply for post-conviction*
8 *relief, notwithstanding any provision of law*
9 *that would otherwise bar such application*
10 *as untimely; and*

11 *(B) preserves biological evidence secured in*
12 *relation to the investigation or prosecution of a*
13 *State offense—*

14 *(i) under a State statute or a State or*
15 *local rule, regulation, or practice, enacted or*
16 *adopted before the date of enactment of this*
17 *Act (or extended or renewed after such*
18 *date), in a manner that ensures that rea-*
19 *sonable measures are taken by all jurisdic-*
20 *tions within the State to preserve such evi-*
21 *dence; or*

22 *(ii) under a State statute or a State or*
23 *local rule, regulation, or practice, enacted or*
24 *adopted after the date of enactment of this*

1 *Act, in a manner comparable to section*
 2 *3600A of title 18, United States Code, if—*

3 *(I) all jurisdictions within the*
 4 *State comply with this requirement;*
 5 *and*

6 *(II) such jurisdictions may pre-*
 7 *serve such evidence for longer than the*
 8 *period of time that such evidence*
 9 *would be required to be preserved*
 10 *under such section 3600A.*

11 ***Subtitle B—Improving the Quality***
 12 ***of Representation in State Cap-***
 13 ***ital Cases***

14 ***SEC. 321. CAPITAL REPRESENTATION IMPROVEMENT***
 15 ***GRANTS.***

16 *(a) IN GENERAL.—The Attorney General shall award*
 17 *grants to States for the purpose of improving the quality*
 18 *of legal representation provided to indigent defendants in*
 19 *State capital cases.*

20 *(b) DEFINED TERM.—In this section, the term “legal*
 21 *representation” means legal counsel and investigative, ex-*
 22 *pert, and other services necessary for competent representa-*
 23 *tion.*

24 *(c) USE OF FUNDS.—Grants awarded under sub-*
 25 *section (a)—*

1 (1) *shall be used to establish, implement, or im-*
2 *prove an effective system for providing competent*
3 *legal representation to—*

4 (A) *indigents charged with an offense sub-*
5 *ject to capital punishment;*

6 (B) *indigents who have been sentenced to*
7 *death and who seek appellate or collateral relief*
8 *in State court; and*

9 (C) *indigents who have been sentenced to*
10 *death and who seek review in the Supreme Court*
11 *of the United States; and*

12 (2) *shall not be used to fund, directly or indi-*
13 *rectly, representation in specific capital cases.*

14 (d) *EFFECTIVE SYSTEM.—As used in subsection (c)(1),*
15 *an effective system for providing competent legal represen-*
16 *tation is a system that—*

17 (1) *invests the responsibility for identifying and*
18 *appointing qualified attorneys to represent indigents*
19 *in capital cases in—*

20 (A) *a public defender program that relies on*
21 *staff attorneys, members of the private bar, or*
22 *both, to provide representation in capital cases;*
23 *or*

24 (B) *an entity established by statute or by*
25 *the highest State court with jurisdiction in*

1 *criminal cases, which is composed of individuals*
2 *with demonstrated knowledge and expertise in*
3 *capital representation; and*

4 *(2) requires the entity described in paragraph*
5 *(1) to—*

6 *(A) establish qualifications for attorneys*
7 *who may be appointed to represent indigents in*
8 *capital cases;*

9 *(B) establish and maintain a roster of*
10 *qualified attorneys;*

11 *(C) assign 2 attorneys from the roster to*
12 *represent an indigent in a capital case, or pro-*
13 *vide the trial judge a list of not more than 2*
14 *pairs of attorneys from the roster, from which 1*
15 *pair shall be assigned, provided that, in any case*
16 *in which the State elects not to seek the death*
17 *penalty, a court may find, subject to any re-*
18 *quirement of State law, that a second attorney*
19 *need not remain assigned to represent the indi-*
20 *gent to ensure competent representation;*

21 *(D) conduct, sponsor, or approve specialized*
22 *training programs for attorneys representing de-*
23 *fendants in capital cases;*

24 *(E) monitor the performance of attorneys*
25 *who are appointed and their attendance at*

1 *training programs, and remove from the roster*
2 *attorneys who fail to deliver effective representa-*
3 *tion or who fail to comply with such require-*
4 *ments as the entity may establish regarding par-*
5 *ticipation in training programs; and*

6 *(F) ensure funding for the full cost of com-*
7 *petent legal representation by the defense team*
8 *and outside experts selected by counsel, who shall*
9 *be compensated as follows:*

10 *(i) Attorneys employed by a public de-*
11 *fender program shall be compensated ac-*
12 *cording to a salary scale that is commensu-*
13 *rate with the salary scale of the prosecutor's*
14 *office in the jurisdiction.*

15 *(ii) Appointed attorneys shall be com-*
16 *pensated for actual time and service, com-*
17 *puted on an hourly basis and at a reason-*
18 *able hourly rate in light of the qualifica-*
19 *tions and experience of the attorney and the*
20 *local market for legal representation in*
21 *cases reflecting the complexity and responsi-*
22 *bility of capital cases.*

23 *(iii) Non-attorney members of the de-*
24 *fense team, including investigators, mitiga-*
25 *tion specialists, and experts, shall be com-*

1 *pensated at a rate that reflects the special-*
 2 *ized skills needed by those who assist coun-*
 3 *sel with the litigation of death penalty*
 4 *cases.*

5 *(iv) Attorney and non-attorney mem-*
 6 *bers of the defense team shall be reimbursed*
 7 *for reasonable incidental expenses.*

8 **SEC. 322. CAPITAL PROSECUTION IMPROVEMENT GRANTS.**

9 *(a) IN GENERAL.—The Attorney General shall award*
 10 *grants to States for the purpose of improving the represen-*
 11 *tation of the public in State capital cases.*

12 *(b) USE OF FUNDS.—*

13 *(1) PERMITTED USES.—Grants awarded under*
 14 *subsection (a) shall be used for one or more of the fol-*
 15 *lowing:*

16 *(A) To design and implement training pro-*
 17 *grams for State and local prosecutors to ensure*
 18 *effective representation in State capital cases.*

19 *(B) To develop and implement appropriate*
 20 *standards and qualifications for State and local*
 21 *prosecutors who litigate State capital cases.*

22 *(C) To assess the performance of State and*
 23 *local prosecutors who litigate State capital cases,*
 24 *provided that such assessment shall not include*

1 *participation by the assessor in the trial of any*
 2 *specific capital case.*

3 *(D) To identify and implement any poten-*
 4 *tial legal reforms that may be appropriate to*
 5 *minimize the potential for error in the trial of*
 6 *capital cases.*

7 *(E) To establish a program under which*
 8 *State and local prosecutors conduct a systematic*
 9 *review of cases in which a death sentence was*
 10 *imposed in order to identify cases in which post-*
 11 *conviction DNA testing may be appropriate.*

12 *(F) To provide support and assistance to*
 13 *the families of murder victims.*

14 *(2) PROHIBITED USE.—Grants awarded under*
 15 *subsection (a) shall not be used to fund, directly or*
 16 *indirectly, the prosecution of specific capital cases.*

17 **SEC. 323. APPLICATIONS.**

18 *(a) IN GENERAL.—The Attorney General shall estab-*
 19 *lish a process through which a State may apply for a grant*
 20 *under this subtitle.*

21 *(b) APPLICATION.—*

22 *(1) IN GENERAL.—A State desiring a grant*
 23 *under this subtitle shall submit an application to the*
 24 *Attorney General at such time, in such manner, and*

1 *containing such information as the Attorney General*
2 *may reasonably require.*

3 (2) *CONTENTS.—Each application submitted*
4 *under paragraph (1) shall contain—*

5 (A) *a certification by an appropriate officer*
6 *of the State that the State authorizes capital*
7 *punishment under its laws and conducts, or will*
8 *conduct, prosecutions in which capital punish-*
9 *ment is sought;*

10 (B) *a description of the communities to be*
11 *served by the grant, including the nature of ex-*
12 *isting capital defender services and capital pros-*
13 *ecution programs within such communities;*

14 (C) *a long-term statewide strategy and de-*
15 *tailed implementation plan that—*

16 (i) *reflects consultation with the judici-*
17 *ary, the organized bar, and State and local*
18 *prosecutor and defender organizations; and*

19 (ii) *establishes as a priority improve-*
20 *ment in the quality of trial-level representa-*
21 *tion of indigents charged with capital*
22 *crimes and trial-level prosecution of capital*
23 *crimes; and*

24 (D) *assurances that Federal funds received*
25 *under this subtitle shall be—*

1 (i) used to supplement and not sup-
 2 plant non-Federal funds that would other-
 3 wise be available for activities funded under
 4 this subtitle; and

5 (ii) allocated equally between the uses
 6 described in section 321 and the uses de-
 7 scribed in section 322.

8 **SEC. 324. STATE REPORTS.**

9 (a) *IN GENERAL.*—Each State receiving funds under
 10 this subtitle shall submit an annual report to the Attorney
 11 General that—

12 (1) identifies the activities carried out with such
 13 funds; and

14 (2) explains how each activity complies with the
 15 terms and conditions of the grant.

16 (b) *CAPITAL REPRESENTATION IMPROVEMENT*
 17 *GRANTS.*—With respect to the funds provided under section
 18 321, a report under subsection (a) shall include—

19 (1) an accounting of all amounts expended;

20 (2) an explanation of the means by which the
 21 State—

22 (A) invests the responsibility for identifying
 23 and appointing qualified attorneys to represent
 24 indigents in capital cases in an entity described
 25 in section 321(d)(1); and

1 *(B) requires the entity described in section*
2 *321(d)(1) to—*

3 *(i) establish qualifications for attor-*
4 *neys who may be appointed to represent*
5 *indigents in capital cases in accordance*
6 *with section 321(d)(2)(A);*

7 *(ii) establish and maintain a roster of*
8 *qualified attorneys in accordance with sec-*
9 *tion 321(d)(2)(B);*

10 *(iii) assign attorneys from the roster in*
11 *accordance with section 321(d)(2)(C);*

12 *(iv) conduct, sponsor, or approve spe-*
13 *cialized training programs for attorneys*
14 *representing defendants in capital cases in*
15 *accordance with section 321(d)(2)(D);*

16 *(v) monitor the performance and train-*
17 *ing program attendance of appointed attor-*
18 *neys, and remove from the roster attorneys*
19 *who fail to deliver effective representation or*
20 *fail to comply with such requirements as the*
21 *entity may establish regarding participa-*
22 *tion in training programs, in accordance*
23 *with section 321(d)(2)(E); and*

24 *(vi) ensure funding for the full cost of*
25 *competent legal representation by the de-*

1 *defense team and outside experts selected by*
2 *counsel, in accordance with section*
3 *321(d)(2)(F), including a statement setting*
4 *forth—*

5 *(I) if the State employs a public*
6 *defender program under section*
7 *321(d)(1)(A), the salaries received by*
8 *the attorneys employed by such pro-*
9 *gram and the salaries received by at-*
10 *torneys in the prosecutor's office in the*
11 *jurisdiction;*

12 *(II) if the State employs ap-*
13 *pointed attorneys under section*
14 *321(d)(1)(B), the hourly fees received*
15 *by such attorneys for actual time and*
16 *service and the basis on which the*
17 *hourly rate was calculated;*

18 *(III) the amounts paid to non-at-*
19 *torney members of the defense team,*
20 *and the basis on which such amounts*
21 *were determined; and*

22 *(IV) the amounts for which attor-*
23 *ney and non-attorney members of the*
24 *defense team were reimbursed for rea-*
25 *sonable incidental expenses; and*

1 (3) a statement confirming that the funds have
2 not been used to fund representation in specific cap-
3 ital cases or to supplant non-Federal funds.

4 (c) *CAPITAL PROSECUTION IMPROVEMENT GRANTS.*—
5 With respect to the funds provided under section 322, a re-
6 port under subsection (a) shall include—

7 (1) an accounting of all amounts expended;

8 (2) a description of the means by which the State
9 has—

10 (A) designed and established training pro-
11 grams for State and local prosecutors to ensure
12 effective representation in State capital cases in
13 accordance with section 322(b)(1)(A);

14 (B) developed and implemented appropriate
15 standards and qualifications for State and local
16 prosecutors who litigate State capital cases in
17 accordance with section 322(b)(1)(B);

18 (C) assessed the performance of State and
19 local prosecutors who litigate State capital cases
20 in accordance with section 322(b)(1)(C);

21 (D) identified and implemented any poten-
22 tial legal reforms that may be appropriate to
23 minimize the potential for error in the trial of
24 capital cases in accordance with section
25 322(b)(1)(D);

1 (E) established a program under which
 2 State and local prosecutors conduct a systematic
 3 review of cases in which a death sentence was
 4 imposed in order to identify cases in which post-
 5 conviction DNA testing may be appropriate in
 6 accordance with section 322(b)(1)(E); and

7 (F) provided support and assistance to the
 8 families of murder victims; and

9 (3) a statement confirming that the funds have
 10 not been used to fund the prosecution of specific cap-
 11 ital cases or to supplant non-Federal funds.

12 (d) *PUBLIC DISCLOSURE OF ANNUAL STATE RE-*
 13 *PORTS.*—The annual reports to the Attorney General sub-
 14 mitted by any State under this section shall be made avail-
 15 able to the public.

16 **SEC. 325. EVALUATIONS BY INSPECTOR GENERAL AND AD-**
 17 **MINISTRATIVE REMEDIES.**

18 (a) *EVALUATION BY INSPECTOR GENERAL.*—

19 (1) *IN GENERAL.*—As soon as practicable after
 20 the end of the first fiscal year for which a State re-
 21 ceives funds under a grant made under this title, the
 22 Inspector General of the Department of Justice (in
 23 this section referred to as the “Inspector General”)
 24 shall—

1 (A) after affording an opportunity for any
2 person to provide comments on a report sub-
3 mitted under section 324, submit to Congress
4 and to the Attorney General a report evaluating
5 the compliance by the State with the terms and
6 conditions of the grant; and

7 (B) if the Inspector General concludes that
8 the State is not in compliance with the terms
9 and conditions of the grant, specify any defi-
10 ciencies and make recommendations for correc-
11 tive action.

12 (2) *PRIORITY*.—In conducting evaluations under
13 this subsection, the Inspector General shall give pri-
14 ority to States that the Inspector General determines,
15 based on information submitted by the State and
16 other comments provided by any other person, to be
17 at the highest risk of noncompliance.

18 (b) *ADMINISTRATIVE REVIEW*.—

19 (1) *COMMENT*.—Upon receiving the report under
20 subsection (a)(1), the Attorney General shall provide
21 the State with an opportunity to comment regarding
22 the findings and conclusions of the report.

23 (2) *CORRECTIVE ACTION PLAN*.—If the Attorney
24 General, after reviewing the report under subsection
25 (a)(1), determines that a State is not in compliance

1 *with the terms and conditions of the grant, the Attor-*
2 *ney General shall consult with the appropriate State*
3 *authorities to enter into a plan for corrective action.*
4 *If the State does not agree to a plan for corrective ac-*
5 *tion that has been approved by the Attorney General*
6 *within 90 days after the submission of the report*
7 *under subsection (a)(1), the Attorney General shall,*
8 *within 30 days, direct the State to take corrective ac-*
9 *tion to bring the State into compliance.*

10 (3) *REPORT TO CONGRESS.*—*Not later than 90*
11 *days after the earlier of the implementation of a cor-*
12 *rective action plan or a directive to implement such*
13 *a plan under paragraph (2), the Attorney General*
14 *shall submit a report to Congress as to whether the*
15 *State has taken corrective action and is in compli-*
16 *ance with the terms and conditions of the grant.*

17 (c) *PENALTIES FOR NONCOMPLIANCE.*—*If the State*
18 *fails to take the prescribed corrective action under sub-*
19 *section (b) and is not in compliance with the terms and*
20 *conditions of the grant, the Attorney General shall dis-*
21 *continue all further funding under sections 321 and 322*
22 *and require the State to return the funds granted under*
23 *such sections for that fiscal year. Nothing in this paragraph*
24 *shall prevent a State which has been subject to penalties*

1 *for noncompliance from reapplying for a grant under this*
 2 *subtitle in another fiscal year.*

3 (d) *PERIODIC REPORTS.*—*During the grant period,*
 4 *the Inspector General shall periodically review the compli-*
 5 *ance of each State with the terms and conditions of the*
 6 *grant.*

7 (e) *ADMINISTRATIVE COSTS.*—*Not less than 2.5 per-*
 8 *cent of the funds appropriated to carry out this subtitle for*
 9 *each of fiscal years 2005 through 2009 shall be made avail-*
 10 *able to the Inspector General for purposes of carrying out*
 11 *this section. Such sums shall remain available until ex-*
 12 *pended.*

13 **SEC. 326. AUTHORIZATION OF APPROPRIATIONS.**

14 (a) *AUTHORIZATION FOR GRANTS.*—*There are author-*
 15 *ized to be appropriated \$100,000,000 for each of fiscal years*
 16 *2005 through 2009 to carry out this subtitle.*

17 (b) *RESTRICTION ON USE OF FUNDS TO ENSURE*
 18 *EQUAL ALLOCATION.*—*Each State receiving a grant under*
 19 *this subtitle shall allocate the funds equally between the uses*
 20 *described in section 321 and the uses described in section*
 21 *322.*

1 ***Subtitle C—Compensation for the***
2 ***Wrongfully Convicted***

3 ***SEC. 331. INCREASED COMPENSATION IN FEDERAL CASES***
4 ***FOR THE WRONGFULLY CONVICTED.***

5 *Section 2513(e) of title 28, United States Code, is*
6 *amended by striking “exceed the sum of \$5,000” and insert-*
7 *ing “exceed \$100,000 for each 12-month period of incarcer-*
8 *ation for any plaintiff who was unjustly sentenced to death*
9 *and \$50,000 for each 12-month period of incarceration for*
10 *any other plaintiff”.*

11 ***SEC. 332. SENSE OF CONGRESS REGARDING COMPENSA-***
12 ***TION IN STATE DEATH PENALTY CASES.***

13 *It is the sense of Congress that States should provide*
14 *reasonable compensation to any person found to have been*
15 *unjustly convicted of an offense against the State and sen-*
16 *tenced to death.*

Union Calendar No. 194

108TH CONGRESS
1ST SESSION

H. R. 3214

[Report No. 108–321, Part I]

A BILL

To eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

OCTOBER 16, 2003

Reported from the Committee on the Judiciary with an amendment

OCTOBER 16, 2003

Referral to the Committee on Armed Services extended for a period ending not later than October 16, 2003

OCTOBER 16, 2003

Committee on Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed